

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BRIAN RUSSELL BLACKWELL,

Defendant.

CR 17-13-H-CCL-JTJ

**FINDINGS AND  
RECOMMENDATIONS**

**I. Synopsis**

Defendant Brian Russell Blackwell (Blackwell) has been accused of violating the conditions of his supervised release. Blackwell admitted all of the alleged violations, except alleged violation 5. The government withdrew alleged violation 5. Blackwell's supervised release should be revoked. Blackwell should be placed in custody for 6 months, with 48 months of supervised release to follow. Blackwell's supervised release conditions should be modified to include location monitoring during the first 180 days of supervised release.

**II. Status**

Blackwell pleaded guilty to Failure to Register as a Sex Offender on December 12, 2017. (Doc. 22). The Court sentenced Blackwell to 12 months of

custody, followed by 5 years of supervised release. (Doc. 31). Blackwell's current term of supervised release began on September 17, 2019. (Doc. 46 at 2).

### **Petition**

The United States Probation Office filed an Amended Petition on November 7, 2019, requesting that the Court revoke Blackwell's supervised release. (Doc. 50). The Amended Petition alleged that Blackwell had violated the conditions of his supervised release: 1) by using methamphetamine on two occasions; 2) by possessing methamphetamine on two occasions; 3) by failing to successfully complete his sex offender treatment program; 4) by failing to report to his probation officer on two occasions; and 5) by failing to attend sex offender treatment.

### **Initial appearance**

Blackwell appeared before the undersigned for his initial appearance on November 7, 2019. Blackwell was represented by counsel. Blackwell stated that he had read the Amended Petition and that he understood the allegations. Blackwell waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

### **Revocation hearing**

The Court conducted a revocation hearing on November 7, 2019. Blackwell

admitted that he had violated the conditions of his supervised release: 1) by using methamphetamine on two occasions; 2) by possessing methamphetamine on two occasions; 3) by failing to report to his probation officer on two occasions; and 4) by failing to attend sex offender treatment. The government withdrew alleged violation 5. The violations that Blackwell admitted are serious and warrant revocation of Blackwell's supervised release.

Blackwell's violations are Grade C violations. Blackwell's criminal history category is IV. Blackwell's underlying offense is a Class C felony. Blackwell could be incarcerated for up to 24 months. Blackwell could be ordered to remain on supervised release for up to 54 months, less any custody time imposed. The United States Sentencing Guidelines call for a term of custody of 6 to 12 months.

### **III. Analysis**

Blackwell's supervised release should be revoked. Blackwell should be incarcerated for 6 months, with 48 months of supervised release to follow. Blackwell's supervised release conditions should be modified to include location monitoring during the first 180 days of supervised release. This sentence is sufficient but not greater than necessary.

### **IV. Conclusion**

The Court informed Blackwell that the above sentence would be

recommended to Judge Lovell. The Court also informed Blackwell of his right to object to these Findings and Recommendations within 14 days of their issuance.

The Court explained to Blackwell that Judge Lovell would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose. Blackwell stated that he wished to waive his right to object to these Findings and Recommendations, and that he wished to waive his right to allocute before Judge Lovell.

The Court **FINDS:**

That Brian Russell Blackwell violated the conditions of his supervised release: by using methamphetamine; by possessing methamphetamine; by failing to report to his probation officer as directed; and by failing to attend sex offender treatment.

The Court **RECOMMENDS:**

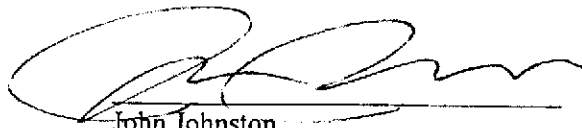
That the District Court revoke Blackwell's supervised release and commit Blackwell to the custody of the United States Bureau of Prisons for a term of 6 months, with 48 months of supervised release to follow. Blackwell's supervised release conditions should be modified to include location monitoring during the first 180 days of supervised release.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND  
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO  
OBJECT**

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of

Electronic Filing. 28 U.S.C. § 636(b)(1). A United States district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district court judge, and may waive the right to appear and allocute before a district court judge.

DATED this 8th day of November, 2019.



John Johnston  
United States Magistrate Judge